

CASE NO.  
CV20936545

D1 CM

SUMMONS NO.  
42435265

Rule 4 (B) Ohio

Rules of Civil  
Procedure

## SUMMONS

TRANSTAR INDUSTRIES, LLC  
vs  
TIM LUNDQUIST, ET AL.

PLAINTIFF  
  
DEFENDANT

TIM LUNDQUIST  
875 CORPORATE DRIVE  
JORDAN MN 55352

You have been named defendant in a sums complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Said answer is required to be served on:



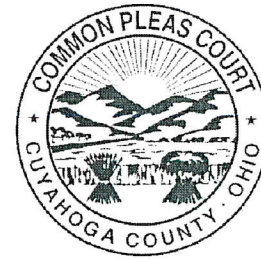
Plaintiff's Attorney

ALEXANDRA C. ECKRICH  
1375 E 9TH STREET  
  
SUITE 2250  
CLEVELAND, OH 44114-0000


Case has been assigned to Judge:

SHIRLEY STRICKLAND SAFFOLD  
Do not contact judge. Judge's name is given for attorney's reference only.

NAILAH K. BYRD  
Clerk of the Court of Common Pleas



DATE SENT  
Aug 28, 2020

By  Deputy

COMPLAINT FILED 08/28/2020



CASE NO.  
CV20936545

D2 CM

SUMMONS NO.  
42435266

Rule 4 (B) Ohio

Rules of Civil  
Procedure

TRANSTAR INDUSTRIES, LLC  
VS  
TIM LUNDQUIST, ET AL.

PLAINTIFF

DEFENDANT

SUMMONS

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875 CORPORATE DRIVE  
JORDAN MN 55352

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Plaintiff's Attorney

ALEXANDRA C. ECKRICH  
1375 E 9TH STREET  
  
SUITE 2250  
CLEVELAND, OH 44114-0000

Said answer is required to be served on Plaintiff's  
Attorney (Address denoted by arrow at left.)

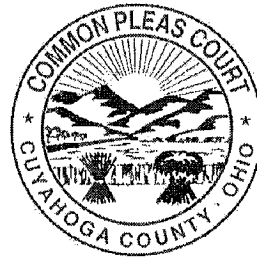
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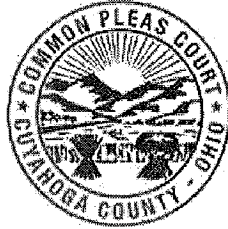
DATE SENT  
Aug 28, 2020

By

Deputy

COMPLAINT FILED 08/28/2020





**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed: COMPLAINT**  
**August 28, 2020 10:01**

By: DAVID A. CAMPBELL 0066494

Confirmation Nbr. 2060687

TRANSTAR INDUSTRIES, LLC

CV 20 936545

vs.

TIM LUNDQUIST, ET AL.

**Judge: SHIRLEY STRICKLAND SAFFOLD**

**Pages Filed: 9**

**IN THE COMMON PLEAS COURT  
CUYAHOGA COUNTY, OHIO**

TRANSTAR INDUSTRIES, LLC

7350 Young Drive  
Walton Hills, OH 44146

Plaintiff

v.

TIM LUNDQUIST

875 Corporate Drive  
Jordan, Minnesota 55352

and

DYNOTEC INDUSTRIES

875 Corporate Drive  
Jordan, Minnesota 55352

Defendants.

CASE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_

**(Jury Demand Endorsed Hereon)**

**COMPLAINT AND JURY DEMAND**

Plaintiff Transtar Industries, LLC (“Plaintiff” or “Transtar”) for its Complaint and Jury Demand (the “Complaint”) against Defendants Tim Lundquist (“Lundquist”) and Dynotec Industries (“Dynotec”) (Lundquist and Dynotec are collectively, “Defendants”) avers and states as follows:

**THE PARTIES**

1. Plaintiff is an Ohio limited liability company.
2. Plaintiff’s principal place of business is located in Cuyahoga County at 7350 Young Drive, Walton Hills, OH 44146.
3. Transtar is the global leader in transmission and driveline-related solutions.

4. Dynotec specializes in the wholesale distribution of remanufactured automatic transmissions.

5. Lundquist is Dynotec's President. Lundquist is also Dynotec's principal and shareholder.

6. This lawsuit arises out of services and products provided by Plaintiff to Defendant pursuant to a contract between the Parties.

#### **JURISDICTION AND VENUE**

7. This Court has personal jurisdiction over Defendants because Defendants knowingly contracted with an Ohio business.

8. The contract between Transtar and Dynotec resulted in millions of dollars of products being bought and sold.

9. Lundquist personally guaranteed Dynotec's payments owed to Transtar and agreed to indemnify and hold Transtar harmless on Transtar's extension of credit to Dynotec.

10. A true and correct copy of Dynotec's Account Application with Transtar is attached hereto.

11. This Court is the proper venue for this matter because some or all of the conduct giving rise to this Lawsuit occurred in Cuyahoga County and the claim for relief arose in Cuyahoga County.

#### **FACTS COMMON TO ALL CLAIMS**

12. Transtar and Dynotec have had a long-standing business relationship.

13. Dynotec has purchased a substantial amount of transmission-related products from Transtar during the Parties' business relationship.

14. Transtar has also purchased transmission-related products from Dynotec during the course of the Parties' long-standing business relationship.

15. On March 26, 2009, Dynotec completed a Transtar Account Application.

16. Dynotec's Account Application sought to open a line of credit with Transtar in order to permit Dynotec to purchase Transtar's products without paying upon delivery of the product.

17. Transtar does not offer lines of credit to all Transtar customers.

18. Dynotec's line of credit was highly valuable to Dynotec.

19. Dynotec's line of credit was approved based on the personal guaranty provided by Lundquist.

20. The personal guaranty provides: "The undersigned, the principal and shareholder(s) of said company, expressly agrees to indemnify and hold harmless, Transtar Industries, Inc., its affiliates, subsidiaries, successors and assigns, because of extension of credit as contained in this application and in the event the undersigned company fails or refuses to pay any amount due to Transtar, the undersigned principals will pay said amount in full upon demand of Transtar, including all interest, finance charges and attorney's fees in the event it is necessary for Transtar to employ an attorney or other third party firm to collect same, together with the cost of collection. This application replaces and supersedes any previous credit applications with Transtar, its predecessors, affiliates and subsidiaries. This is to certify that I am a principal of the business and personally guarantee this account."

21. Dynotec owes Transtar an amount in excess of One Million Dollars pursuant to the Account Application.

22. Transtar has made a demand for payment of the amounts owed.

23. To date, Dynotec has failed to make payment to Transtar on the amounts owed pursuant to the Account Application.

24. Based on Dynotec's breach of the Account Application, Defendants owe Transtar an amount in excess of One Million Dollars that includes amounts owed for products sold by Transtar to Dynotec, non-reimbursed product returns, interest, finance charges, and costs and fees associated with Transtar hiring a lawyer and taking actions to collect on the Account Application.

**COUNT I – BREACH OF CONTRACT**

25. Plaintiff incorporates paragraphs 1 through 24 of the Complaint as if fully rewritten.

26. The Account Application is a valid and lawful contract under Ohio law.

27. Transtar sold transmission-related products to Dynotec pursuant to the Account Application.

28. Transtar provided the line of credit requested by Dynotec on the products sold in return for Defendants' promise to pay for the products pursuant to Transtar's pricing.

29. Dynotec has breached its contract with Transtar by failing to make payment to Transtar on its line of credit upon Transtar's demand.

30. Lundquist has breached the Account Application by failing to pay Transtar for the amounts owed by Dynotec pursuant to his personal guaranty set forth in the Account Application.

31. Transtar has fully complied with the Account Application.

32. Transtar provided valuable consideration to Defendants by offering a line of credit, quality products, and timely delivery of the products.

33. Defendants breached the contract with Plaintiff.

34. As a result of Defendants' breach of contract, Defendants owe Transtar an amount in excess of One Million Dollars that includes amounts owed for products sold by Transtar to Dynotec, interest, finance charges, and costs and fees associated with Transtar hiring a lawyer and taking actions to collect on the Account Application.

35. Defendants have been put on notice of the breach of the Account Application, but have failed to make payments to Transtar.

**COUNT II – UNJUST ENRICHMENT**

36. Plaintiff incorporates paragraphs 1 through 35 of the Complaint as if fully rewritten.

37. Transtar provided Defendants with products and services that have substantial value.

38. Transtar expected to be compensated the published prices for its products and services.

39. Defendants were aware of Transtar's pricing and Defendants accepted Transtar's products and services at those prices.

40. Defendants have benefited from Transtar's products and services.

41. It would be inequitable or unconscionable for Defendants to enjoy the benefit of Transtar's products and services without paying for the products and services.

42. Public policy would be frustrated if Defendants would receive the benefit of Transtar's products and services without compensation to Transtar.

43. As a result of Defendants' unjust enrichment, Defendants owe Transtar an amount in excess of One Million Dollars that includes amounts owed for products sold by Transtar to



Dynotec, interest, finance charges, and costs and fees associated with Transtar hiring a lawyer and taking actions to collect on the Account Application.

44. Transtar should be awarded interest on the amount owed for Defendants' failure to timely respond to the various debt notices.

WHEREFORE, Plaintiff demands judgment and relief against Defendants as follows:

1. Damages in an amount in excess of One Million Dollars for Defendants' breach of contract;

2. Damages in an amount in excess of One Million Dollars for Defendants' unjust enrichment;

3. Interest on the amounts owed to Plaintiff because Defendants failed to timely pay the amounts owed to Transtar;

4. Costs incurred in prosecuting this action;

5. Finance charges on the amounts owed by Defendants;

6. Attorney fees incurred in prosecuting this matter and collecting on the judgment and

7. Any other appropriate relief that this Court deems just and equitable.

Respectfully submitted,

/s/ David A. Campbell

David A. Campbell (0066494)

Alexandra Eckrich (0099133)

Lewis Brisbois Bisgaard & Smith, LLP

1375 E. 9<sup>th</sup> Street, Suite 2250

Cleveland, OH 44114

Phone: (216) 298-1262

Fax: (216) 344-9421

david.a.campbell@lewisbrisbois.com

alexandra.eckrich@lewisbrisbois.com

*Attorneys for Plaintiff*

**JURY DEMAND**

Pursuant to Rule 38(B) of the Ohio Rules of Civil Procedure, a trial by jury is respectfully requested on all the issues presented herein.

/s/ David A. Campbell

David A. Campbell (0066494)

*One of the Attorneys for Plaintiffs*

Mar 01 2010 1:08PM Transtar-Minny

763-781-5870

P.1

MAR-1-2010 11:18 FROM:AAAAAAA

9526410152

TO: 7637815873

P.1/3

**Account Application****TRANSTAR**  
TRANSTAR INDUSTRIES, INC. ®☐ **COD Account**  
No References Required☒ **Credit Application**  
References Required

For Internal Use Only

Account #:

Sales #: 176648 SDE**BILL TO:**Corporation Name: Dynatex Industries

Business Name:

Street Address: 14355 Johnson MemorialCity: Shakopee State: MN Zip: 55379Country: USAPhone: 952-1041-9005 Fax:Email Address: lundquist@tds.net**SHIP TO (if different from billing address):**

Corporation Name:

Business Name:

Street Address:

City: State: Zip:

Country:

Phone: Fax:

Email Address:

Do you now or have you ever had an account with Transtar Industries, Inc.? ☒ Yes ☐ No

If yes, please provide your Transtar Customer Number:

**BUSINESS PROFILE:**No. of years at this location: 2No. of locations: 1Other branches or affiliates? ☐ Yes ☒ No

Name of branch or affiliate(s):

(if more than one, please attach an additional page)

Street Address:

City: State: Zip:

Country:

Phone: Fax:

**TYPE OF BUSINESS:**☒ Corporation ☐ Limited Liability Corp. (LLC)☐ Limited Partnership ☐ Partnership☐ Sole ProprietorshipState of Incorporation: Minnesota or

Location of Primary Business (state):

or if sole proprietorship, state(s) or residence, include all:

Federal Tax ID Number:

Social Security Number:

**INFORMATION ON PARTNERS/OFFICERS OF COMPANY:**Name: Tim LundquistTitle: PresidentStreet Address: 13351 Skyline CirCity: Shakopee State: MN Zip: 55379Country: USA Phone: 952-1041-9005

Name:

Title:

Street Address:

City: State: Zip:

Country: Phone:

**INFORMATION ABOUT YOUR BUSINESS:**Business Location(s): ☐ Own ☒ LeaseMonthly Rent Payment: 2200 Number of Employees: 5 Number of Bays: 3

Estimated Monthly Parts Purchases:

In order to process your credit application, a valid Driver's License number and state of issuance is required.

DL State of Issuance: Minnesota Driver's License Number:

Mar 01 2010 1:08PM Transtar-Mihny

763-781-5870

p.2

MAR-1-2010 11:19 FROM:AAAAAA

9526410152

TO:7637815870

P.2/3

<b>BANK INFO (to be filled out by applicant):</b>	
Bank Name: <u>Community Bank</u>	Contact: <u>Melissa Carlson</u>
Address: <u>706 Walnut St.</u>	
City: <u>Chaska</u>	State: <u>MN</u> Zip: <u>55318</u>
Country: _____	Phone Number: <u>(952) 556-1305</u>
Account Number: _____	
<input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Other, please describe: _____	
<b>TRADE REFERENCES (to be filled out by applicant):</b>	
Contact: <u>Tom</u>	Company Name: <u>Napa Jordan</u>
Address: _____	
City: <u>Jordan</u>	State: <u>MN</u> Zip: <u>55352</u>
Country: <u>USA</u>	Phone Number: <u>(952) 492-3111</u>
Contact: <u>Don Robinson</u>	Company Name: <u>Transtar</u>
Address: _____	
City: <u>Columbia Heights</u>	State: <u>MN</u> Zip: <u>55421</u>
Country: <u>USA</u>	Phone Number: <u>(763) 781-5888</u>
Contact: <u>Nick</u>	Company Name: <u>Napa Chaska</u>
Address: _____	
City: <u>Chaska</u>	State: <u>MN</u> Zip: <u>55318</u>
Country: <u>USA</u>	Phone Number: ( ) _____
<p>The undersigned authorizes Transtar Industries, Inc. (or, its assigns, affiliates and subsidiaries (hereinafter referred to as "Transtar") to perform the necessary credit investigation on the information provided in this credit application.</p> <p>Transtar Standard Terms of Sale are Prox 15<sup>th</sup> (Invoices billed one month in advance on the 15<sup>th</sup> of the month following purchase). Actual terms may vary based upon Transtar's credit investigation.</p> <p>Late payments or balances higher than your assigned credit limit may result in shipments being held, as well as NSF Checks (Non-Sufficient Funds) for which a \$50 service fee or the maximum allowed by law will be charged). NSF Checks must be replaced immediately by Certified Funds or Money order.</p> <p>A service charge will be added to all delinquent accounts.</p> <p>Transtar does review credit limits periodically and may make changes based on business growth and payment history. If you desire to raise your credit limit, Transtar may require additional information including a recent audited financial statement.</p> <p>Transtar may require security for accounts maintaining larger balances.</p> <p>Customers with past due balances or NSF checks are not eligible to receive refund checks from Transtar. All credits will be applied to open balances.</p> <p>Transtar is required to collect State and Local Sales Tax for customers unless we have a certificate of exemption on file, or a resale certificate.</p> <p>Incomplete Credit Applications will not be processed.</p>	
<p>The undersigned, the principal and shareholder(s) of said company, expressly agrees to indemnify and hold harmless Transtar Industries, Inc., its affiliates, subsidiaries, successors and assigns, because of extension of credit as contained in this application and in the event the undersigned company fails or refuses to pay any amount due to Transtar, the undersigned principal will pay said amount in full upon demand of Transtar, including all interest, finance charges, and attorney's fees in the event it is necessary for Transtar to employ an attorney or other third party firm to collect same, together with the cost of collection. This application replaces and supercedes any previous credit applications with Transtar, its predecessors, affiliates and subsidiaries.</p> <p>This is to certify that I am a principal of the business and personally guarantee this account.</p>	
Signed: <u>[Signature]</u> Date: <u>3/26/09</u>	
Printed Name: <u>Tim Lundquist</u>	
Signed: _____ Date: _____	
Printed Name: _____	

Please send application back to the Transtar Region that your business is located in:

Region	Central	Midwest	Northeast	Southeast	West
Fax	214-920-7080	440-201-8025	732-225-4102	358-787-7455	623-848-3154
Phone	800-274-2831	800-358-3332	800-254-0360	800-833-3340	888-878-6880
Location	2425 Irving Blvd. Dallas, TX 75207	7250 Young Dr. Cleveland, OH 44146	40 Campus Dr. Edison, NJ 08837	501 Country Rd. 50 Florence, AL 35054	4530 N. 43 <sup>rd</sup> Ave. Phoenix, AZ 85031



Revised 2/20/01